

No. 9(1)81-Lab/776.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s The Sonapat Central Cooperative Bank, Sonapat; (ii) The President, Kundli Mini Bank, P.O. Kundli.

BEFORE SHRI BANWARI LAL DALAL,
PRESIDING OFFICER,
LABOUR COURT, HARYANA,
ROHTAK.

Reference No. 141 of 1977

between

SHRI SHRI KISHAN, WORKMAN AND
THE MANAGEMENT OF M/S THE
SONEPAT CENTRAL COOP. BANK,
SONEPAT (ii) THE PRESIDENT,
KUNDLI MINI BANK, P.O. KUNDLI.

Present :—

Shri M. S. Rath for the workman.

Shri M. M. Kaushal for the management.

AWARD

This reference No. 141 of 1977 has been referred to this court by the Hon'ble Governor—vide his order No. ID/RTK/435-77/48181, dated 15th November, 1977 under section 10(i)(c) of the I.D. Act for adjudication of the dispute existing between Shri Shri Kishan, workman and the management of M/s The Sonapat Central Coop. Bank, Sonpat; (ii) The President, Kundli Mini Bank, Kundli, P.O. Kundli. The term of the reference was:—

Whether the termination of services of Shri Shri Kishan was justified and in order? If not to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties, who appeared in response to the same on 16th January, 1978. The workman filed his claim statement stating therein that he was formerly employed as Secretary in the Kundli Janata Credit & Service Society Ltd., Kundli on 20th

April, 1976 on 250 per month as his wages. After the conversion of the society into the Mini Bank, he continued to serve as Manager of the Mini Bank on monthly salary of Rs. 350. The Managing Director of the respondent bank issued a circular dated 6th January, 1977 to all managers of the Mini Bank requiring them to give one case of family planning per day, failing which strict action would be taken against them which could go to the extent of termination of the service. The Managing Director on his failure to fulfil the target, issued secret order to the President of the Mini Bank to take charge from him. On 3rd February, 1977, charge was taken from him without any formal order resulting in his termination which was illegal, wrong and an act of victimisation. Other secretaries who were working in different societies were allowed to continue as Managers, Mini Bank such as Dilbag Singh, Jagpal, Giana Nand and Daya Nand. Respondent No. 1 filed the written statement wherein they had alleged that the workman was never employed by the management which was obvious from claim statement and as such the demand notice and the subsequent reference against the respondent bank was bad in law. Respondent bank was, therefore, not a proper party and more over the workman does not come under the definition of workman as defined of workman under section 2(s) of the I.D. Act being a manager. On merits the management denied that the Mini Bank at Kundli was ever placed under the control of a answering respondent. As the workman was never employed by the respondent bank so there was no question of terminating his services by the bank. They also denied the continuation of the persons named by the workman as manager and also the allegation of family planning target and threat of strict action thereupon. On 11th September, 1978, my learned predecessor allowed the reference to be amended as per the order of the Haryana Govt. with the number ID/RTK/435-77/37693—96, dated 14th August 1978 to the effect that the respondent No. 2, the President, Kundli Mini Bank, P.O. Kundli was added as a necessary party. Notice was sent to the

respondent No. 2 and was proceeded against *ex parte* when they did not appear in response to the same on 9th November, 1978. The following issues were framed on 16th March, 1979 and respondent No. 2 was not allowed to participate in the proceedings as *ex parte* order were not got set aside by them and no application was moved by any of the competent person of respondent No. 2.

1. Whether the applicant Shri Shri Kishan does not fall within the definition of a workman as defined in section 2(s) of the Industrial Disputes Act ?
2. Whether the relationship of Master and servant exists qua the applicant Shri Shri Kishan and respondent No. 1 ?
3. As per reference.

On 13th April, 1979 issue No. 1 was reframed on the request of respondent No. 1 as under which was previously framed in the negative form :—

Whether Shri Kishan applicant falls within the definition of the workman as provided in section 2(s) of the Industrial Disputes Act ?

On the same day the *ex parte* order against respondent No. 2 was also set aside. The case was fixed for evidence of the workman. The workman examined three witnesses WW-1 Shri Rohtas Singh, Manager respondent No. 2, WW-2 Shri Kishan Lal, Establishment Officer, respondent No. 1, and WW-3 the workman himself. WW-1 brought the record of the respondent No. 2, proceeding book, cash book and the register of membership from 4th April, 1976 to 7th March, 1977. He stated that this record was in the handwriting of the workman who was appointed as Secretary of the respondent No. 2. In the proceedings dated 2nd December, 1976 the workman has been recorded and designated as manager. The last wages drawn by the workman were Rs. 350/- p.m. It was in accordance with the resolution

dated 21st January, 1977 he further deposed that Shri Giana Nand took over charge from the workman on 3rd March, 1977. There was no resolution or order regarding the termination of services of Shri Kishan in the record. In his cross examination he had given out that the Mini Bank Manager was the final authority in the society but there was no staff working under the workman when he was in the employment of respondent No. 2. Respondent No. 2 was stated being financed by respondent No. 1 with effect from 2nd December, 1976 before the termination of the workman as was evident from the resolution at No. 3 of 2nd December, 1976. Exhibit M-1 and Exhibit M-2 are the resolutions of appointment and fixing of the salary respectively. Exhibit M-3 is the photo copy of the proceeding, dated 3rd March, 1977 in respect of taking over charge from the workman.

WW-2 has produced Exhibit W-1 and Exhibit W-2 the true copy of resolution, dated 30th December, 1976 and 16th January, 1977. Exhibit W-2 related to the selection of four secretaries as Managers by the screening committee including Shri Giana Nand who was appointed in place of Shri Kishan resulting in the termination of his services. Exhibit W-3 was the copy of the circular issued by Managing-Director in respect of family planning. There was no record as to how many cases were given by various employees kept in the bank. Exhibit M-4 was the copy of the common cadre miles of the bank.

WW-3, the workman stated that he was initially drawing Rs 250 as Secretary. The membership increased and the society raised his pay to Rs. 350 per month and he was designated as Mini Bank Manager although his duties were of clerical nature. The membership register, ledger book, cash book, loan register, pronote register were maintained by him. Family planning circular Ex. W-3 was received by him. The Managing Director of respondent No. 1 sent for him and threatened him with termination if he did not get family planning cases. He asked him to handover charge to Shri Giana Nand on 2nd March, 1977. He named two-three other persons who were junior to him and were retained in service. The instance adopted for so doing was that of

the family planning cases. The society respondent No. 2 never passed any resolution terminating his services nor the Managing-Director respondent No. 2 issued any termination letter. He has further stated that he was without work and was not gainfully employed anywhere in spite of his best efforts. He has admitted in his cross-examination that he was appointed for a period till a common cadre manager takes over. He has also given out that the Managing-Director use to snub and threat everyone who could not procure family planning cases. He was matriculate and he received training for mini bank manager for one month at Sonapat. The certificate is Ex. W-4.

The management examined Shri G. D. Goel, Assistant Manager who deposed that he had brought pay sheets from April, 1976 to February, 1977. There was no name of the workman appearing in the sheets. The respondent No. 2 administered its affairs itself and was not under the administrative control of the respondent No. 1. Exhibit W-1 and Exhibit W-2 were the resolutions passed by respondent No. 1 by which four secretaries out of nine were screened and selected. The workman was never employed by the bank and it was incorrect that he was removed from service on the basis of family planning target not achieved by him. MW-1 had given out in his cross-examination that the qualification regarding for secretaries are given in rule 9.6 of the common cadre rules. He could not say whether the four persons selected fulfilled the necessary qualifications under the rules as well as other conditions. There was no such record in the bank from which it could be ascertained as to the qualifications of various Secretaries called for and selected by the screening committee including the workman. The persons who had been selected had become their employees others had not. He further denied the suggestion whether there was any Criteria adopted for selection regarding the procurement of family planning cases.

After hearing the learned representative of both the parties and going through the evidence oral as well as

documentary on the record carefully decide issuewise as under :—

ISSUE No. 1 :

The management has raised the objection that as the applicant has stated in his claim statement that he was working as Manager with the respondent No. 2 as such he does not fall under the definition of workman as defined in section 2(s) of the I.D. Act but they have not produced any evidence which could prove him as doing the duties of managerial and supervisory nature. On the other hand the workman has stated that he had been doing all the clerical work maintaining membership register, ledger book, cash book, loan register, promote register. No other person subordinate to him or helper was in the service of the society. The management neither confronted him with any document showing him as having been doing managerial functions nor put any suggestion to him regarding the workman contention of not doing the clerical job in their cross-examination. This statement of the workman was corroborated by the WW-1 who brought the record proceeding book, cash book, membership register, pertaining to the period of the employment of Shri Shri Kishan which was in his hand. He has given out in his cross-examination that during the period of Shri Kishan employment there was no staff working under him. From the evidence it is obvious that the applicant Shri Kishan had been doing the job which was of clerical nature and he has no power which could exclude him from the definition of workman. I, therefore, decide this issue against the management and in favour of the applicant.

ISSUE No. 2 :

It is an admitted fact on both sides that the workman was initially appointed as Secretary by the respondent No. 2 on 20th April, 1976. The Society was being financed by the United Commercial Bank, Kundli and thereafter respondent No. 1 started financing respondent No. 2 with effect from 2nd December, 1976 when respondent No. 2 was converted into the Mini

Bank. As MW-1 has stated that the Secretaries selected by the screening committee became their employee. Shri Giana Nand who was selected by the screening committee per the statement of MW-1 became the employee of respondent No. 1 and who took over charge from the workman who was working as manager. It is quite apparent from this fact that the society after conversion into the Mini Bank continued to function under the administrative as well as financial control of respondent No. 1 and only in the exercise of such power vested with the respondent No. 1. He appointed Shri Giana Nand and ordered him to take charge from the workman of the respondent No. 2. If Giana Nand is an employee of the respondent No. 1 then the workman who had been working there since the conversion of respondent No. 2 to a mini bank cannot be denied that status. The workman was, therefore the employee of the respondent bank and there existed the relationship of employer and employee. The workman continued to work as manager, mini bank, Kundli after the society was converted to the mini bank and respondent No. 1 never served any notice to the workman that as he was not the employee of the respondent bank and workman as such he should relinquish his charge. The management is estopped to raise this plea at this stage and the same is not tenable because the bank by its own act and conduct had admitted the workman as their employee and allowed him to function up to the date of his termination. This issue is also decided against the management and in favour of the workman.

ISSUE No. 3:

As issue No. 1 and 2 are found to have been proved against the management, the management had appointed one Shri Giana Nand who took over charge from the workman resulting in the termination the workman use of without any specific order is unwarranted, illegal and of arbitrary power on the part of the management. The contention of the workman that his services were terminated by the respondent No. 1 on his failure to fulfil the target of family planning cases

as was required,—vide the circular No. W-3 incorporating in itself the serious consequences even to the extent of termination which has been admitted to have been issued by respondent No. 1 to 11, the Mini Bank manager including the workman. In view of the circular Ex. W-3 it cannot be ignored that excess must have been meted out with the workman on his failure to achieve the family planning target as excesses in general has occurred during the days of emergency and it was quite probable that the workman might have been victimised. I, therefore, hold that respondent No. 1 in collaboration with respondent No. 2 was mainly responsible for the termination of services of the workman and for which they had no justification. I, therefore, give my award that the workman is entitled to reinstatement with continuity of service and with full back wages at the established rate of Rs. 350 per month. The reference is answered and returned in the above terms.

Dated 24th December, 1980.

BANWARI LAL DALAL,

Presiding Officer,

Labour Court, Haryana, Rohtak.

Endorsement No. 172, dated 15th January, 1981.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,

Presiding Officer,

Labour Court, Haryana, Rohtak.

No. 9(1)81-8 Lab./778.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the

workman and the management of M/s Partap Mehar Ceramics, Bahadurgarh.
BEFORE SHRI BANWARI LAL DALAL,
PRESIDING OFFICER, LABOUR
COURT, HARYANA, ROHTAK

Reference No. 11 of 78

Between

SHRI MOHINDER SINGH, WORKMAN
AND THE MANAGEMENT OF M/S
PARTAP MEHAR CERAMICS,
BAHADURGARH.

Present:—

Shri Harish Chander, for the workman.

Shri M. M. Kaushal, for the management.

AWARD

This reference No. 11 of 78 has been referred to this court by the Hon'ble Governor,—*vide* his order No. ID/1133/ dated 11th January, 1978, under section 10(i)(c) of the Industrial Dispute Act, for adjudication of the dispute existing between Shri Mohinder Singh, workman and the management of M/s Partap Mehar Ceramics, Bahadurgarh. The term of the reference was:—

Whether the termination of services of Shri Mohinder Singh was justified and in order? If not to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The management appeared in response to the same and fresh notice was issued to the workman for 14th March, 1978. The workman did not file his claim statement. The management filed their written statement and following issues were framed on the basis of the pleadings of the parties:—

- (1) Whether the workman concerned voluntarily abandoned his job by way of absent himself from duty with effect from 20th August, 1977, and continued to do so till 17th September, 1977?

- (2) If yes to what effect?

Shri Vijay Rathee partner of the respondent and Shri Om Parkash, Steno to Labour Officer, Bhiwani were examined as management witnesses MW-1 and

MW-2, respectively. The workman examined Shri Charanjit Singh, Accountant of the respondent, he himself and Shri Muneshar as his witnesses. The parties filed their written arguments. After going through the evidence, documentary as well as oral and the arguments of the parties. I decide the issues as under:—

ISSUE No. 1 and 2:

The case of the management is that the factory came into production on 1st July, 1977 and the workman was appointed on 1st July, 1977 and worked up to 22nd August, 1977 and remained absent onwards up to 16th September, 1977. The management after waiting till 17th September, 1977, struck off the name of the workman from the rolls on that date. The management has further alleged that as the workman had taken the advance of Rs. 300 on 8th August, 1977 and worked up to 19th August, 1977 and never returned afterwards even in spite of the notice to him. Neither he came to join his duties nor he repaid the amount of advance.

The workman has alleged that he was working with the management with effect from October, 1976 and was getting Rs. 200. The management terminated his services on 20th August, 1977. The reason for his termination was that the workman insisted that his name be entered into the record of the factory from the date he had joined i.e., October, 1976 but the management wanted that his name was to be entered with effect from 1st July, 1977, the date on which the factory came into production. The management did not allow him to resume his duties after 20th September, 1977.

The authorised representative of the workman argued that,—*vide* the management letter, dated 17th September, 1977 which is Ex. M-10 it is clear that the workman went to the factory time and again after 20th August, 1977, but he was not allowed to resume his duties and as such he has not abandoned his services. The voucher Ex. M-6 on which the management alleges that an advance of Rs. 300 was taken by the workman on

8th August, 1977 is a false manipulation and an afterthought.

It is admitted on both sides that the factory came into production on 1st July, 1977 but the workman has not been able to prove by any sought of evidence that he was actually working since October, 1976 as alleged by him. He could not produce any iota of proof documentary even from the record summoned by him to show his employment with the respondent prior to 1st July, 1977. The workman could not produce any witness from amongst the workmen who had been working with him prior to 1st July, 1977. On the other hand the management had been fair to the workman in producing the record summoned by the workman in support of his case but the workman could not prove the fact of his employment since October, 1976 as alleged by him. The management has produced the attendance register Ex. M-7. The applicant is marked present with effect from 1st July, 1977 to 19th August, 1977, thereafter he is shown as absent up to 16th September, 1977 and his name was struck off from the rolls on 17th September, 1977. The workman has made contradictory statements at the same time in examination in chief as well in cross-examination with regard to his designation and also with regard to his signatures on the vouchers of advance Ex. M-6. The management examined Shri Om Parkash, Steno to the Labour Officer, Bhiwani as MW-2, who brought the record relating to the demand notice served by the workman on the management which was received in the Labour Officer's Office on 1st September, 1977, M-12 is the copy of the demand notice M-14 is the carbon copy of the comments received in the office from the management where in the management has given the same version as has been given in their written statement and which has been supported by the oral and documentary evidence produced by the management. The demand notice was served by the workman along with a co-workman Shri Ram Parkash jointly the letter settled

his dispute,—*vide* Ex. M-9. The management's stand has been consistent throughout while the workman has been twisting his case to contradictory directions whichever suits him most at different times. I therefore disbelieve the version of the workman while agreeing with the contention of the management that the management did not terminate the services of the workman and the workman voluntarily absented himself and abandoned his services. The workman is therefore not entitled to any relief. The reference is answered and returned in the above terms. No order as to costs. Dated the 24th December, 1980.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.
Endorsement No. 178, dated 15th January, 1981.

Forwarded, (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 9(1)81-8Lab./779.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Haryana State Electricity Board, Chandigarh.

BEFORE SHRI BANWARI LAL DALAL,
PRESIDING OFFICER, LABOUR
COURT, HARYANA, ROHTAK.

Reference No. 229 of 79.

between

SHRI KISHAN CHAND, WORKMAN
AND THE MANAGEMENT OF M/S
HARYANA STATE ELECTRICITY
BOARD, CHANDIGARH

Present:—

Shri S. K. Goswami, for the workman.
Shri S. S. Sarohi, for the management.

AWARD

This reference No. 229 of 1979 has been referred to this court by the Hon'ble Governor,—*vide* his order No. ID/Amb./190-79/57570, dated 20th December, 1979, under section 10(i)(c) of the Industrial Dispute Act for adjudication of the dispute existing between Shri Kishan Chand, workman and the management of M/s H.S.E.B. Chandigarh. The term of the reference was:—

Whether the termination of services of Shri Kishan Chand was justified and in order? If not to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties who appeared on 14th February, 1980 in response to the same. The workman filed his statement of claim on 13th March, 1980, the management filed their written statement on 30th April, 1980. The workman filed the rejoinder and issues were framed on the pleadings of the parties on 12th June, 1980. The management was asked to adduce their evidence on 21st August, 1980. The parties obtained several adjournments for the same and at last on 12th December, 1980, they reached a mutual amicable settlement. The statement of the authorised representative of the parties were recorded. According to the terms of the settlement the management had already reinstated the workman and was ready to give all the service benefits to the workman as he would have been entitled if he had been in continuous service but the intervening period was to be treated as leave of the kind due. To this offer the workman agreed.

In view of the settlement no further proceedings are called for and I give my award in terms of the settlement and returned the same accordingly. No order as to costs.

Dated the 24th December, 1980.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

Endorsement No. 179, dated 15th January, 1981.

Forwarded, (four copies) to the Secretary, to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 9(1)81-8Lab./782.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s. Jupiter Tyre Company, Modern Industrial Estate, Bahadurgarh.

BEFORE SHRI BANWARI LAL DALAL,
PRESIDING OFFICER, LABOUR
COURT, HARYANA, ROHTAK
Reference No. 30 of 79.

between
SHRI KANCHAN RAM, WORKMAN
AND THE MANAGEMENT OF M/S
JUPITER TYRE COMPANY, MODERN
INDUSTRIAL ESTATE, BAHADUR-
GARH.

Present:—

No one for either side.

AWARD

This reference No. 30 of 1979 has been referred to this court by the Hon'ble Governor,—*vide* his order No. RCK/17-79/6434, dated 16th February, 1979, under section 10(i)(c) of the Industrial Disputes Act for adjudication of the dispute existing between Shri Kanchan Ram, workman and the management of M/s Jupiter Tyre Co., Bahadurgarh. The term of the reference was:—

Whether the termination of services of Shri Kanchan Ram was justified any in order? If not to what relief is entitled?

On the receipt of the order of reference notices as usual were sent to the parties, the workman appeared through

his authorised representative and the notice sent to the management was received back with the endorsement by the post man 'left without address' Fresh notice was issued to the management on the correct address be given by the workman. Again the notice was received back with the same endorsement and dasti notice was given to the workman representative for effecting service through the Sub-Judge. The management was proceeded against *ex parte* on 13th December, 1979 on receipt of the report of the process server of the o/o Sub-Judge Bahadurgarh and the case was fixed for *ex parte* evidence of the workman. After granting two three opportunities to the workman for the production of his *ex parte* evidence, neither the workman nor his authorised representative appeared on 14th March, 1980, leading me to conclude that the workman had no dispute left against the management. Under these circumstances I give my award that the order of termination of the services of workman by the management is justified and in order and the workman is not entitled to any relief. The reference is answered and returned accordingly. No order as to costs.

Dated the 24th December, 1980.

BANWARI LAL DALAL,

Presiding Officer,

Labour Court, Haryana, Rohtak.

Endorsement No. 183, dated 15th January, 1981.

Forwarded, (four copies), to the Secretary, to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act,

BANWARI LAL DALAL,

Presiding Officer,

Labour Court, Haryana, Rohtak.

No. 9(1)81-8Lab./783.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947, (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between

the workman and the management of M/s Kurushetra Primary Coop. Land Mortgage Bank Ltd., Thanesar.

BEFORE SHRI BANWARI LAL DALAL,
PRESIDING OFFICER, LABOUR
COURT, HARYANA, ROHTAK.

Reference No. 270 of 78.

between

SHRI RANBIR SINGH, WORKMAN
AND THE MANAGEMENT OF M/S
KURUSHETRA PRIMARY COOP.
LAND MORTGAGE BANK, LTD.,
THANESAR.

Present:—

Shri Madhu Sudar Saran Cowashish,
for the workman.

Shri Surinder Kaushal, for the
management.

AWARD

This reference No. 270 of 78 has been referred to this court by the Hon'ble Governor,—*vide* his endorsement No. ID/KNL/66-78/42753, dated 22nd September, 1978, under section 10(i)(c) of the Industrial Disputes Act for adjudication of the dispute existing between Shri Ranbir Singh, workman and the management of M/s Kurukshetra Primary Coop. Land Mortgage Bank Ltd., Thanesar. The term of the reference was:—

"Whether the termination of services of Shri Ranbir Singh was justified and in order? If not to what relief is he entitled?"

On the receipt of the order of reference notices as usual were sent to the parties who appeared in response to the same on 23rd October, 1978. The workman filed his claim statement on 23rd November, 1978 whereby he, alleged that he was working on a permanent job of peon in the respondent bank for the last more than four years and the management terminated his services on 27th April, 1978 in an illegal and unjustified manner without serving him with a chargesheet and without holding any enquiry.

The management filed their written statement on 20th December, 1978, whereby the management denied the allegation of the workman that his services were terminated on 27th April, 1978, as the management never issued such an order. In fact the applicant was placed under suspension on 27th May, 1975 and received his dues on 14th June, 1975 and afterwards on the basis of his resignation and as such there is no case of termination but it is a case of resignation by the workman. The workman has raised the demand on 30th May, 1978, after a lapse of three years against his termination on 27th April, 1978 as alleged by him in fact there was no termination on that date and as such no dispute which could have been referred for adjudication. The workman filed his rejoinder retrating his allegations and controverting the pleas of the management.

On the basis of the pleadings filed by the parties the following issues were framed:—

1. Whether the workman resigned his job of his own accord and the same was accepted by the management ?
2. If not as per reference ?

The arguments were heard and after a careful perusal of the evidence oral as well as documentary, I decide issueswise as under:—

ISSUE NO. 1:

The management examined five witnesses namely Balbir Singh clerk P.L.D.B., Panipat as MW-1, Shri Sher Singh, Accountant P.L.D.B., Karnal as MW-2, Shri Nafe Singh Mann, Inspecting Officer, Karnal as MW-3 Shri Tara Chand, Accountant, P.L.D.B., Karnal as MW-2 and Shri Chander Singh Accountant, respondent's bank as MW-5. MW-1 has deposed that he was working as a despatch receipt clerk with the respondent in the year 1975. In the receipt register at serial No 1230, dated 14th June, 1975 there is an enquiry relating to the resignation of Shri Balbir Singh, peon. This fact has been consistingly corroborated by all the witnesses examined on behalf of the management. MW-2 has further deposed that the workman picked up a quarrel with the accountant Shri Variam Singh

on 23rd May, 1975, and gave him beating and also called him names. This fact was also corroborated by the subsequent witness who were examined on behalf of the management MW-3, who was the manager at the relevant time has further deposed that he enquired about the quarrel from the members of the staff and on receipt of application Ex. MW-3/B, and Ex. MW-3/C passed the order Ex. MW-3/A suspending the workman with effect from 27th June, 1975. Thereafter the workman came on 14th June, 1975 and told him that he did not want to work in the bank and submitted his resignation which was accepted by him. He has further stated that he was arrested in one of his personal case on 22nd June, 1977 and the file concerning the resignation was kept in the Almirah which was got opened by the other manager who got the file out of the Almirah and placed somewhere outside. After his release on bail he came to know that the peon Shri Ranbir Singh got the resignation removed with the help of some other peon working in the bank and started within letters to the head office afterwards. The workman representative could not draw out anything from the witness by way of his cross-examination. MW-4 has stated that the payment on voucher Ex. MW-4/1 was made by him and the same was in respect of the provident fund amount which was drawn by the workman after he resigned from the same of the bank. MW-5 has deposed that he used to appear before the conciliation officer duly authorised by the bank,—vide Ex. MW-5/1 and the report received from the Conciliation Officer was Ex. MM-5/2A.

The workman examined one Shri Satbir Singh, field supervisor respondent bank as WW-1 and he himself was examined as WW-2. The witness WW-1 brought the summoned record, copy of the resolution of the board passed in the meeting held on 27th April, 1978. He had also brought the attendance register, salary register but no the record pertaining to head office report No. EA/HDB/78/13425 of 17th March, 1978. From the attendance register it was clear that name of Shri Ranbir Singh appeared in the month of June, 1975. The workman has deposed in his statement that the

management did not mark his present after 14th June 1975. He complained against this action of the management to the Head Office and the head office kept the enquiry pending upto August, 1977. The bank conducted the enquiry and issued two letters to him which were mark 'A' and Mark 'B'. He further stated that he never resigned from his service nor he quarrelled with any of the officials of the bank. The workman admitted in his cross examination that Ex. MW-3/A was received by him but denied the suggestion that after the receipt of Ex. MW3/A he resigned. At Ex. WW-1/2A bears his signature in the circle and after 14th June, 1975, there is no presence marked in the register. He showed his inability to produce any copy of his letter which he alleged to have been written to the head office. He admitted that Variam Singh, accountant, Chander Bhan, clerk, Shiv Ram clerk who were working in the bank at that time when he was working there but he had no enmity with any of these. Shri Nafe Singh was the manager at that time but he had no ill-will or enmity with him also. The same was the case with Balbir Singh and Sher Singh, Tara Chand. The workman had given out that he never wrote any letter to the labour authority prior to 30th May, 1978 and volunteered that he had been making correspondence with the department. He was told by the head office orally that enquiry will be conducted by some one on some date. He could not give anything other than that Shri Partap Singh was to conduct the enquiry on 7th January, 1978, but no intimation was received by him from Shri Partap Singh and he never appeared before Shri Partap Singh. The workman has further stated that he used to go to the head office after every two three months and the letters Mark 'A' and 'B' were of the same period.

The management though has not produced the resignation of the workman but their contention that the same got stolen or lost by the workman with the

help of some other peon working in the bank seems convincing from the fact that the workman was not able to produce any material evidence which could go to prove that he had been continuously making representation to the authorities either at Thanesar or at Chandigarh head office. The letters mark 'A' and 'B' which were placed on file by the workman are neither addressed to him nor they bear any number or date nor the signatures of the issuing authority and as such no reliance can be placed on these documents. Ex. WW-1/1, which is the copy of the resolution passed by the managing committee of the respondent bank in their meeting held on 23rd April, 1978 is of no help to the case of the workman. Rather proves the version of the management by which it has been resolved that the fact of resignation of the workman had been proved and their acceptance of the same by the manager was being confirmed. The entry at serial No. 1230 of the receipt register produced by MW-1 also supports the version of the management. The workman representatives argument that the workman received the payment.—vide voucher Ex. MW-4/1 under the pressing need to meet some social expenses is not tenable as this is for a petty amount of Rs. 242-75 paise only.

In view of the above discussion I am of the view that the workman had resigned on his own accord and the management did not terminate his services. The fact has been fully established beyond doubt hence issue No. 1 is decided in favour of the management and against the workman.

ISSUE NO. 2:

In view of my findings above the dispute referred for adjudication is not an industrial dispute covered under section 2(A) of the Industrial Dispute Act. The workman is therefore not entitled to any relief either of reinstatement or of back wages. Reference is answered and

returned in the above terms. No order as to costs.

Dated the 24th December, 1980.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

Endorsement No. 182, dated 15th January, 1981.

Forwarded (four copies) to the Secretary, to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Dispute Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 9(1)81-8Lab./1092.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Tractel Tirfor India Pvt. Ltd., Mathura Road, Faridabad.

BEFORE SHRI M. C. BHARDWAJ,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 23 of 1979.

between

SHRI SURINDER KUMAR, WORKMAN
AND THE MANAGEMENT OF M/S
TRACTEL TIRFOR INDIA PVT. LTD.,
MATHURA ROAD, FARIDABAD.

Present:—

Shri Pardeep Sharma, for the workman.

Shri S. L. Gupta, for the management.

AWARD

By order No. 1/251-78/1137, dated 8th January, 1979, the Governor of Haryana, referred the following dispute between the management of M/s Tractel Tirfor India Pvt. Ltd., Mathura Road, Faridabad and its workman Shri Surinder Kumar, to this Tribunal, for

adjudication, in exercise of the powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Surinder Kumar was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 13th June, 1979:—

1. Whether the domestic enquiry is proper and fair?
2. Whether the termination of services of the workman was justified and in order?
3. Whether the workman is gainfully employed?

And the case was fixed for the evidence of the management, who examined Shri S. L. Gupta, as MW-1 and closed their case. Then the case was fixed for the evidence of the workman, who examined Shri Om Parkash as WW-1, Shri Raju Ram as WW-2 and himself as WW-3 and closed their case. Arguments were heard. Now I give my finding issues-wise:—

ISSUE NO. 1:

MW-1, stated that he was appointed Enquiry Officer,—vide Ex. M-1 to hold enquiry into the charges levelled against the workman,—vide Ex. M-2. Letter was received by the workman. His signature appear on the letter in token of receipt. Ex. M-3 was the explanation of the workman. The workman did not attend the enquiry despite notice. Enquiry proceedings were Ex. M-4. He considered the evidence of the enquiry and gave his finding Ex. M-5. Documents placed on the enquiry file were Ex. M-6 to M-13. The management considered the finding and dismissed the workman,—vide Ex.

M-14. In cross examination he stated that it was wrong to suggest that the workman was not allowed in the enquiry room. It was also denied that signatures of some persons were obtained on prepared enquiry proceedings.

WW-1, stated that he was working with the management for the last two years. The concerned workman had a quarrel with the management. He did not know if any enquiry was held. He did not give any statement against the workman. He had signed some papers. There was a theft in the factory. After that he was called by the management to sign certain papers. Ex. W-1 was his affidavit. The concerned workman was propaganda Secretary of the union. In cross examination he stated that he did not know if a charge sheet was issued to the workman or some enquiry held. He did not file any complaint regarding his signing papers. He was an active member of the union. His signature appears on page 9 of the enquiry. These signatures were made by him before Shri S. L. Gupta. He denied the suggestion that he appeared as a witness in the enquiry and the statement was read over to him before signing. WW-2 Shri Riju Ram stated that he did not know if any enquiry was held against the concerned workman. He did not give any statement against him. In 1978 there was a theft in the factory. The management had asked him to sign certain papers. Because these papers were wanted by the police. At that time Shri Shahni and Works Manager Shri Sharma were present. He did not know Shri S. L. Gupta. His affidavit was Ex. W-2. In cross examination he stated that he was a member of the union and now he was Secretary. There was a strike in the factory and he was also on strike. Page 7 and 8 of the enquiry file bear his signatures. He had not signed other papers before the management. He denied the suggestion that he appeared as a witness during the enquiry and also that he was deposing falsely now because he had developed bad relation with the management. He did not make any complaint regarding his signatures to any authorities. WW-3 stated that he was chargesheeted and suspended from

duty on 10th October, 1978. On 25th October, 1978 he was called in the office for domestic enquiry. He went to the factory gate at 11-00 A.M., delivered a letter to the Time Keeper who told him that he will get a reply from the Enquiry Officer at 2-00 p.m. At that time he was not allowed by the Chowkidar to go into the factory. He used to go to the factory for making presence from 25th October, 1978. He was not informed of the enquiry. Dismissal letter was received by him on 6th November, 1978. In cross examination he admitted his signatures on Ex. M-2 and M-1. Ex. M-11 was the letter which was delivered to the time keeper on 25th October, 1978. He did not make any written complaint to any authority for non joining in the enquiry. He admitted that there was a strike in the factory in 1979 but did not know if the relations between the office bearers of the union and the management became strained after the strike.

Ex. M-2 is the chargesheet for using barbarous language, threatening other workers and officers of the establishment, disobeying instructions of his superiors and riotous behaviour resulting in obstruction of work of the establishment for two hours and financial loss. Ex. M-3 is the reply to the show cause notice denying the charges. Ex. M-1 is notice of enquiry appointing Shri S. L. Gupta as Enquiry Officer and intimating the date and time of the enquiry. The enquiry notice was received by the concerned workman and he has admitted his signatures on the receipt. As regards the contention of the workman that he was present at the factory gate on that date, there is statement of Shri Y. P. Sahni Secretary-cum-Time Office Incharge that he had gone to the factory gate at 2-30 p.m. but the concerned workman was not there. Though he had come at 11-00 a.m. and he had delivered a letter. In these circumstances the Enquiry Officer proceeded further. The Enquiry Officer recorded the statement of Shri Bhagwan Dass, Shri N. K. Arora, Shri Riju Ram and Om Parkash.

I have gone through their statements and find that the enquiry finding is based

on their statements. Because the workman failed to appear in the enquiry himself despite his receipt of notice, Enquiry Officer was within his power to go ahead with the enquiry. Even afterwards the workman did not make any complaint about the holding of the enquiry. Thus I do not find any reason to vitiate the enquiry or its finding. This issue is, therefore, decided in favour of the management.

ISSUE NO. 2:

As discussed above the charges contained in Ex. M-2 were of grave and serious in nature. These charges were proved by the Enquiry Officer. The workman presented in the witness box, two of the witnesses Shri Om Parkash and Shri Riju Ram WW-1 and WW-2 who stated on oath that they did not appear during the enquiry against the concerned workman, though they admitted their signatures on their statements during the enquiry. The representative for the management argued that it is easy to find out some witnesses who often resile their earlier statement. They are Trade Union Leaders and must be interested in the concerned workman. However, if I admit their present statement and affidavits to be correct, the statements of other two witnesses remain sufficient to bring home guilt of the delinquent workman and the enquiry finding remains the same. In these circumstances the action of the management is justified. This issue is decided in favour of the management.

ISSUE NO. 3:

The parties did not led any evidence on this issue, nor there is any necessity to decide this issue.

While answering the reference, I give my award that the termination of services of the workman was justified and in order. The workman is not entitled to any relief.

Dated the 21st January, 1981.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 95, dated 23rd January, 1981.

Forwarded, (four copies) to the Secretary, to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)81-8Lab./1095.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947, (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Delhi Consultech Private Ltd., Sector 24, Faridabad:—

BEFORE SHRI M. C. BHARDWAJ,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 285 of 1979

between

SHRI SHIV RAJ SINGH, WORKMAN
AND THE MANAGEMENT OF M/S
DELHI CONSULTECH PRIVATE
LIMITED, SECTOR-24, FARIDABAD.

Present:—

Shri B. M. Gupta, for the workman.

Shri S. L. Gupta, for the management.

AWARD

By order No. 132-79/41074, dated 18th September, 1979, the Governor of Haryana referred the following dispute between the management of M/s Delhi Consultech Private Limited, Sector-24, Faridabad and its workman Shri Shiv Raj Singh, to this Tribunal, for adjudication, in exercise of the powers conferred

by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Shiv Raj Singh was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 21st May, 1980:—

1. Whether the termination of services of the workman concerned was justified and in order?

2. Relief.

And the case was fixed for the evidence of the management, who examined Shri Rajnish Pahwa, Personnel Officer as MW-1 and closed their case. Then the case was fixed for the evidence of the workman, who examined himself as his own witness and closed his case. Arguments were heard. Now I give my finding issueswise:—

ISSUE NO. 1:

The representative for the management argued that the workman was appointed on probation with effect from 22nd December, 1978,—vide Ex. M-1 and the case was of a termination simplicitor at the expiry of the probation period. I have gone through Ex. M-1. Under clause 4, the probation was fixed at six months which could be extended in writing otherwise appointment will cease on 23rd June, 1978. MW-1, who produced Ex. M-1 stated that the Incharge of the workman was not satisfied with his work. The workman was unable to follow the Supervisor. Ex. M-2 was attendance card of the workman in which he was absent from 6th June, onwards. His name was struck off on 23rd June, 1979. In cross-examination he denied that the workman was not given any appointment letter.

WW-1, the concerned workman stated that he had proceeded on leave from 8th June, 1979 to 10th June, 1979, but when he returned he was not allowed to join duty. In cross-examination he denied the suggestion that he was given appointment for six months only. Ex. M-2 shows the workman absent from 8th June, 1979, onwards. There is a note that his name was struck off on 23rd June, 1979. Thus I find this is a case of termination simplicitor of a probationer and the action of the management is justified. This issue is decided in favour of the management.

ISSUE NO. 2:

The workman is not entitled to any relief.

While answering the reference, I give my award that the termination of services of the workman was justified and in order. The workman is not entitled to any relief.

Dated the 22nd January, 1981.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 99, dated 23rd January, 1981.

Forwarded (four copies), to the Secretary, to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated the 22nd January, 1981.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.